



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2439

by Rep. Michael P. McAuliffe

SYNOPSIS AS INTRODUCED:

720 ILCS 570/314.5
720 ILCS 570/316

Amends the Illinois Controlled Substances Act concerning the Prescription Monitoring Program. Excludes licensed veterinarians from the reporting requirements under the Program. Provides that a licensed veterinarian shall report information required under the Prescription Monitoring Program if the person who is presenting an animal for treatment is suspected of fraudulently obtaining any controlled substance or prescription for a controlled substance to the Department of Human Services. Provides that a licensed veterinarian may not be subject to any licensure or disciplinary action by the Department of Financial and Professional Regulation for the failure to report such a person. Effective immediately.

LRB101 05905 SLF 50926 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Controlled Substances Act is
5 amended by changing Sections 314.5 and 316 as follows:

6 (720 ILCS 570/314.5)

7 Sec. 314.5. Medication shopping; pharmacy shopping.

8 (a) It shall be unlawful for any person knowingly or
9 intentionally to fraudulently obtain or fraudulently seek to
10 obtain any controlled substance or prescription for a
11 controlled substance from a prescriber or dispenser while being
12 supplied with any controlled substance or prescription for a
13 controlled substance by another prescriber or dispenser,
14 without disclosing the fact of the existing controlled
15 substance or prescription for a controlled substance to the
16 prescriber or dispenser from whom the subsequent controlled
17 substance or prescription for a controlled substance is sought.

18 (b) It shall be unlawful for a person knowingly or
19 intentionally to fraudulently obtain or fraudulently seek to
20 obtain any controlled substance from a pharmacy while being
21 supplied with any controlled substance by another pharmacy,
22 without disclosing the fact of the existing controlled
23 substance to the pharmacy from which the subsequent controlled

1 substance is sought.

2 (c) A person may be in violation of Section 3.23 of the
3 Illinois Food, Drug and Cosmetic Act or Section 406 of this Act
4 when medication shopping or pharmacy shopping, or both.

5 (c-5) Effective January 1, 2018, each prescriber, except a
6 licensed veterinarian, possessing an Illinois controlled
7 substances license shall register with the Prescription
8 Monitoring Program. Each prescriber or his or her designee
9 shall also document an attempt to access patient information in
10 the Prescription Monitoring Program to assess patient access to
11 controlled substances when providing an initial prescription
12 for Schedule II narcotics such as opioids, except for
13 prescriptions for oncology treatment or palliative care, or a
14 7-day or less supply provided by a hospital emergency
15 department when treating an acute, traumatic medical
16 condition. This attempt to access shall be documented in the
17 patient's medical record. The hospital shall facilitate the
18 designation of a prescriber's designee for the purpose of
19 accessing the Prescription Monitoring Program for services
20 provided at the hospital.

21 (d) When a person has been identified as having 3 or more
22 prescribers or 3 or more pharmacies, or both, that do not
23 utilize a common electronic file as specified in Section 20 of
24 the Pharmacy Practice Act for controlled substances within the
25 course of a continuous 30-day period, the Prescription
26 Monitoring Program may issue an unsolicited report to the

1 prescribers, dispensers, and their designees informing them of
2 the potential medication shopping. If an unsolicited report is
3 issued to a prescriber or prescribers, then the report must
4 also be sent to the applicable dispensing pharmacy.

5 (e) Nothing in this Section shall be construed to create a
6 requirement that any prescriber, dispenser, or pharmacist
7 request any patient medication disclosure, report any patient
8 activity, or prescribe or refuse to prescribe or dispense any
9 medications.

10 (f) This Section shall not be construed to apply to
11 inpatients or residents at hospitals or other institutions or
12 to institutional pharmacies.

13 (g) Any patient feedback, including grades, ratings, or
14 written or verbal statements, in opposition to a clinical
15 decision that the prescription of a controlled substance is not
16 medically necessary shall not be the basis of any adverse
17 action, evaluation, or any other type of negative
18 credentialing, contracting, licensure, or employment action
19 taken against a prescriber or dispenser.

20 (Source: P.A. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18.)

21 (720 ILCS 570/316)

22 Sec. 316. Prescription Monitoring Program.

23 (a) The Department must provide for a Prescription
24 Monitoring Program for Schedule II, III, IV, and V controlled
25 substances that includes the following components and

1 requirements:

2 (1) The dispenser must transmit to the central
3 repository, in a form and manner specified by the
4 Department, the following information:

5 (A) The recipient's name and address.

6 (B) The recipient's date of birth and gender.

7 (C) The national drug code number of the controlled
8 substance dispensed.

9 (D) The date the controlled substance is
10 dispensed.

11 (E) The quantity of the controlled substance
12 dispensed and days supply.

13 (F) The dispenser's United States Drug Enforcement
14 Administration registration number.

15 (G) The prescriber's United States Drug
16 Enforcement Administration registration number.

17 (H) The dates the controlled substance
18 prescription is filled.

19 (I) The payment type used to purchase the
20 controlled substance (i.e. Medicaid, cash, third party
21 insurance).

22 (J) The patient location code (i.e. home, nursing
23 home, outpatient, etc.) for the controlled substances
24 other than those filled at a retail pharmacy.

25 (K) Any additional information that may be
26 required by the department by administrative rule,

1 including but not limited to information required for
2 compliance with the criteria for electronic reporting
3 of the American Society for Automation and Pharmacy or
4 its successor.

5 (2) The information required to be transmitted under
6 this Section must be transmitted not later than the end of
7 the next business day after the date on which a controlled
8 substance is dispensed, or at such other time as may be
9 required by the Department by administrative rule.

10 (3) A dispenser must transmit the information required
11 under this Section by:

12 (A) an electronic device compatible with the
13 receiving device of the central repository;

14 (B) a computer diskette;

15 (C) a magnetic tape; or

16 (D) a pharmacy universal claim form or Pharmacy
17 Inventory Control form.

18 (4) The Department may impose a civil fine of up to
19 \$100 per day for willful failure to report controlled
20 substance dispensing to the Prescription Monitoring
21 Program. The fine shall be calculated on no more than the
22 number of days from the time the report was required to be
23 made until the time the problem was resolved, and shall be
24 payable to the Prescription Monitoring Program.

25 (a-5) A licensed veterinarian shall report information
26 required under the Prescription Monitoring Program if the

1 person who is presenting an animal for treatment is suspected
2 of fraudulently obtaining any controlled substance or
3 prescription for a controlled substance to the Department of
4 Human Services. A licensed veterinarian may not be subject to
5 any licensure or disciplinary action by the Department of
6 Financial and Professional Regulation for the failure to report
7 such a person.

8 (b) The Department, by rule, may include in the
9 Prescription Monitoring Program certain other select drugs
10 that are not included in Schedule II, III, IV, or V. The
11 Prescription Monitoring Program does not apply to controlled
12 substance prescriptions as exempted under Section 313.

13 (c) The collection of data on select drugs and scheduled
14 substances by the Prescription Monitoring Program may be used
15 as a tool for addressing oversight requirements of long-term
16 care institutions as set forth by Public Act 96-1372. Long-term
17 care pharmacies shall transmit patient medication profiles to
18 the Prescription Monitoring Program monthly or more frequently
19 as established by administrative rule.

20 (d) The Department of Human Services shall appoint a
21 full-time Clinical Director of the Prescription Monitoring
22 Program.

23 (e) (Blank).

24 (f) Within one year of January 1, 2008 (the effective date
25 of 100-564) ~~this amendatory Act of the 100th General Assembly,~~
26 the Department shall adopt rules requiring all Electronic

1 Health Records Systems to interface with the Prescription
2 Monitoring Program application program on or before January 1,
3 2021 to ensure that all providers have access to specific
4 patient records during the treatment of their patients. These
5 rules shall also address the electronic integration of pharmacy
6 records with the Prescription Monitoring Program to allow for
7 faster transmission of the information required under this
8 Section. The Department shall establish actions to be taken if
9 a prescriber's Electronic Health Records System does not
10 effectively interface with the Prescription Monitoring Program
11 within the required timeline.

12 (g) The Department, in consultation with the Advisory
13 Committee, shall adopt rules allowing licensed prescribers or
14 pharmacists who have registered to access the Prescription
15 Monitoring Program to authorize a licensed or non-licensed
16 designee employed in that licensed prescriber's office or a
17 licensed designee in a licensed pharmacist's pharmacy, ~~and~~ who
18 has received training in the federal Health Insurance
19 Portability and Accountability Act to consult the Prescription
20 Monitoring Program on their behalf. The rules shall include
21 reasonable parameters concerning a practitioner's authority to
22 authorize a designee, and the eligibility of a person to be
23 selected as a designee. In this subsection (g), "pharmacist"
24 shall include a clinical pharmacist employed by and designated
25 by a Medicaid Managed Care Organization providing services
26 under Article V of the Illinois Public Aid Code under a

1 contract with the Department of Healthcare ~~Health~~ and Family
2 Services for the sole purpose of clinical review of services
3 provided to persons covered by the entity under the contract to
4 determine compliance with subsections (a) and (b) of Section
5 314.5 of this Act. A managed care entity pharmacist shall
6 notify prescribers of review activities.

7 (Source: P.A. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18;
8 100-861, eff. 8-14-18; 100-1005, eff. 8-21-18; 100-1093, eff.
9 8-26-18; revised 10-9-18.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.